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 JENNIFER PEREZ

6
 7 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA

8	JENNIFER PEREZ)	Case No. <u>'15CV2176 W NLS</u>
)	
9	Plaintiff,)	
)	COMPLAINT FOR DAMAGES
10	vs.)	
)	
11)	
12	AARGON AGENCY INC. D/B/A)	[DEMAND FOR JURY TRIAL]
13	AARGON COLLECTION AGENCY; and)	
	WESTERN DENTAL SERVICES, INC.)	
14	Defendants.)	
)	
15)	

16 Plaintiff JENNIFER PEREZ alleges as follows:

17 **I.**
 18 **INTRODUCTION**

19 1. Plaintiff JENNIFER PEREZ (hereinafter referred to as “Plaintiff”),
 20 brings this lawsuit against Defendant AARGON AGENCY INC. D/B/A AARGON
 21 COLLECTION AGENCY (hereinafter “AARGON”) for violations of the Federal
 Fair Debt Collection Practices Act (“FDCPA”), the Rosenthal Fair Debt Collections

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1 Practice Act (“Rosenthal FDCPA) and the California Consumer Credit Reporting
2 Agencies Act (“CCRAA”).

3 2. Plaintiff brings this lawsuit against Defendant WESTERN DENTAL
4 SERVICES, INC. (hereinafter “WESTERN”) for violations of the Rosenthal FDCPA,
5 and the California Consumer Credit Reporting Agencies Act (“CCRAA”).

6 3. Plaintiff brings this action to seek actual damages, statutory damages,
7 attorneys’ fees and costs, and other relief the Court deems appropriate.

8 **II.** 9 **PARTIES**

10 4. Plaintiff is, and at all times mentioned herein was, an individual, residing
11 in the County of Imperial, State of California.

12 5. Plaintiff is a “consumer” as defined by 15 U.S.C. section 1692a(3) and
13 California Civil Code section 1785.3(b), and a “debtor” as the term is defined by
14 California Civil Code section 1788.2(h).

15 6. Plaintiff is informed and believes, and thereupon alleges, that Defendant
16 AARGON is, and at all times mentioned herein was, a corporation who was
17 conducting and engaging in business in the County of Imperial, State of California.

18 7. Plaintiff is informed and believes, and thereupon alleges, that Defendant
19 WESTERN is, and at all times mentioned herein was, a corporation who was
20 conducting and engaging in business in the County of Imperial, State of California.

21 8. Plaintiff is informed and believes, and thereupon alleges, that Defendant
AARGON uses an instrumentality of interstate commerce or the mails in a business

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1 the principal purpose of which is the collection of debts, or who regularly collects or
 2 attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or
 3 due another and is therefore a debt collector as that phrase is defined by 15 U.S.C.
 4 section 1692a(6).

5 9. Plaintiff is informed and believes, and thereupon alleges that Defendants
 6 AARGON and WESTERN are debt collectors as defined under Civil Code section
 7 1788.2(c).

8 10. Defendants AARGON and WESTERN attempted to collect a consumer
 9 debt as defined under the FDCPA and Rosenthal FDCPA.

10 11. Plaintiff is informed and believes and thereupon alleges that at all times
 11 herein mentioned each of the Defendant was the agent, servant, employee, or partner
 12 of each of the remaining defendants and, in committing the acts and omissions
 13 hereinafter alleged, was acting within the course and scope of such agency,
 14 employment, partnership, or other business relationship, and were each responsible
 15 for the acts and omissions alleged in this complaint.

16 **III.** 17 **JURISDICTION AND VENUE**

18 12. This Court has jurisdiction under 15 U.S.C. section 1692k(d), 28 U.S.C.
 19 section 1331, and 28 U.S.C. section 1367 for supplemental state claims.

20 13. This action arises out of violations of the FDCPA and Rosenthal
 21 FDCPA, and the CCRAA. Because Defendants AARGON and WESTERN do

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1 business within the State of California, County of Imperial, personal jurisdiction is
2 established.

3 14. Venue is proper pursuant to 28 U.S.C. section 1391.

4 **IV.**
5 **RELEVANT FACTS**

6 15. Sometime in 2007, when Plaintiff was a minor, she received dental
7 services from Defendant WESTERN. Upon information and believe, the dental
8 services were for braces only.

9 16. Because Plaintiff was a minor, her mother signed as the financially
10 responsible party.

11 17. Upon information and believe, the contract entered into between
12 WESTERN and Plaintiff's mother will show that Plaintiff's mother was the only
13 person financially responsible for the treatment Plaintiff received.

14 18. At some point thereafter, Plaintiff's mother failed to pay the alleged
15 outstanding debt. Plaintiff's mother subsequently filed for bankruptcy in 2010, which
16 included the alleged debt owed to Defendant WESTERN. The entire debt was
17 discharged on or about November 3, 2010.

18 19. In November 2014, Plaintiff applied for a job with the U.S. Customs
19 and Border Protection ("CBP") through Infozen Inc., an employment agency in
20 charge of CBP's hiring process. Part of Plaintiff's background investigation involved
21 the review of her credit history, including obtaining and reviewing her credit report.

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1 20. Subsequently, CBP obtained Plaintiff's credit report, which indicated
2 that Plaintiff owed \$2,226.00 (hereinafter "Account") to Defendant AARGON and
3 that the Account is in "collection."

4 21. Plaintiff was told by the employment agency that she needed to provide
5 documents regarding the current status and steps taken to resolve the Account in order
6 to get the background check clearance needed to get the job.

7 22. Upon investigation, Plaintiff discovered that the Account with Defendant
8 AARGON was for a debt allegedly owed to Defendant WESTERN. This is the same
9 debt that was discharged in Plaintiff's mother's bankruptcy.

10 23. Upon information and believe, Defendant WESTERN had assigned the
11 debt, even though it was discharged in Plaintiff's mother's bankruptcy, to Defendant
12 AARGON for collection purposes.

13 24. Because Defendant AARGON was assigned this alleged debt for
14 collection by Defendant WESTERN, Defendant AARGON was at all times relevant
15 herein the agent working for, in association with, at the direction of, and on behalf of
16 Defendant WESTERN, and therefore any violations committed by Defendant
17 AARGON flow through as vicarious liability to Defendant WESTERN.

18 25. Because Defendant AARGON was acting as the agent for Defendant
19 WESTERN, Defendant AARGON knew or should have known that Plaintiff was not
20 the financially responsible party on the debt, because Defendant AARGON was the
21 agent for Defendant WESTERN and therefore stepped in the shoes of Defendant

1 WESTERN, and Defendant WESTERN's records should clearly show that the mother
2 was the only financially responsible party and that Defendant WESTERN submitted a
3 proof of claim of the debt in the mother's bankruptcy.

4 26. Plaintiff, who was stressed at this point because she needed the job,
5 immediately contacted Defendant AARGON by telephone on July 14, 2015, and
6 spoke to a collection representative about the Account. Not knowing that she was
7 legally not obligated to pay for the Account because it was not her Account, Plaintiff
8 attempted to arrange a payment plan on the Account so that she could get the
9 background check clearance in order to get the job, which she desperately needed.
10 The AARGON representative asked Plaintiff to pay the entire debt, which Plaintiff
11 was unable to do because she did not have the money. Plaintiff offered to make a
12 payment if AARGON provide her with a receipt for the payment, something she
13 needed to provide to the employment agency. Defendant AARGON refused to do so.
14 As such, no payment was made and the conversation ended.

15 27. On July 17, 2015, Plaintiff was denied employed with CBP because she
16 failed to provide the necessary documents regarding her collection Account.

17 28. Because of the denial of her employment, Plaintiff was extremely
18 stressed because she had lost an opportunity to be employed with a governmental
19 agency, something she was looking forward to. As a result, Plaintiff was forced to
20 hire an attorney.
21

1 29. This further caused mental anguish to Plaintiff in that she has been upset,
2 angry, frustrated, embarrassed, and has suffered feelings of hopelessness and despair
3 over the fact that she was not able to start her desired career, all for something over
4 which she has no ability to control and over a debt she did not even owe.

5 30. On August 6, 2015, Plaintiff's attorney sent a letter to Defendant
6 AARGON, informing AARGON that Plaintiff was disputing the debt. The letter also
7 requested that AARGON provide a validation of the debt as well as any and all
8 collection letters it sent to Plaintiff and any and all documents and/or agreements
9 Plaintiff entered into on the Account.

10 31. On August 10, 2015, Plaintiff obtained a copy her credit report from
11 Experian. Defendant AARGON reported the Account, indicating that Plaintiff owed
12 \$2,226.00 and that the account was past-due.

13 32. As a result of the derogatory report upon her credit reports, Plaintiff
14 suffered a reduction in her consumer credit score, which deprived her of an accurate
15 reflection of her creditworthiness and credit standing.

16 33. On or about August 12, 2015, Defendant AARGON sent a written
17 response to Plaintiff's counsel's August 6, 2015 letter, stating that Plaintiff owed \$0
18 on the Account.

19 34. Plaintiff's counsel subsequently sent a letter to the employment agency
20 informing them that Plaintiff had hired him to clear up the inaccuracies on her credit
21 report.

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35. Due to Plaintiff's counsel's letter, Plaintiff was subsequently hired part time by Infozen, Inc.

V.
FIRST CAUSE OF ACTION
(Violation of the FDCPA Against Defendant AARGON)

36. Plaintiff re-alleges each of the paragraphs above, as if fully set forth herein.

37. Defendant AARGON violated the FDCPA by violating 15 U.S.C. sections 1692(e), 1692e(2)(A), 1692e(5), 1692e(8), 1692e(10) and 1692f.

38. Defendant AARGON violated 15 U.S.C. sections 1692e, 1692e(2)(A), and 1692e(10) by falsely and deceptively misrepresenting that Plaintiff owed \$2,226.00 when in fact Plaintiff never owed the debt because the debt belonged to her mother and had already been discharged in bankruptcy.

39. Defendant AARGON violated 15 U.S.C. sections 1692e(5), and 1692e(10) when it took a legal action that it could legally not have taken. Specifically, Defendant AARGON reported to the credit bureaus, including Experian that Plaintiff owed \$2,226.00 when in fact Plaintiff never owed the debt because the debt belonged to her mother and had already been discharged in bankruptcy.

40. Defendant AARGON violated 15 U.S.C. sections 1692e, 1692e(8), and 1692e(10) by inaccurately reporting to the credit bureaus, including Experian, that Plaintiff owed \$2,226.00 when in fact Plaintiff never owed the debt because the debt belonged to her mother and had already been discharged in bankruptcy.

41. Defendant AARGON violated 15 U.S.C. section 1692f when it engaged in unfair and unconscionable means to collect or attempt to collect a debt. Specifically, by reporting to the credit bureaus, including Experian, that Plaintiff owed \$2,226.00 when in fact Plaintiff never owed the debt because the debt belonged to her mother and had already been discharged in bankruptcy.

42. As a result of each and every violation of the FDCPA, Plaintiff has suffered actual damages and harm resulting from Defendant AARGON's actions as heretofore alleged, including but not limited to worry, emotional distress, anxiety, humiliation, loss of creditworthiness and credit standing, and out-of-pocket expenses the exact amount of which is to be proven at trial.

43. As a result of each and every violation of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. section 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. section 1692k(a)(2)(A) and reasonably attorneys' fees and costs pursuant to 15 U.S.C. section 1692k(a)(3).

VI.
SECOND CAUSE OF ACTION
(Violation of the Rosenthal FDCPA against Defendant AARGON)

44. Plaintiff re-alleges each of the paragraphs above, as if fully set forth herein.

45. Any violation of the FDCPA is a violation of California Civil Code section 1788.17, also known as the Rosenthal FDCPA, because section 1788.17 incorporates the FDCPA.

46. Defendant AARGON violated Civil Code section 1788.17 because it violated 15 U.S.C. sections 1692e, 1692e(2)(A), 1692e(5), 1692e(8), 1692e(10) and 1692f.

48. As a result of each and every violation of the Rosenthal FDCPA, Plaintiff is entitled to actual damages pursuant to California Civil Code section 1788.30(a); statutory damages under 1692k(a)(2)(A) which is incorporated by California Civil Code section 1788.17; statutory damages for a knowing or willful violation in the amount of up to \$1,000.00 pursuant to California Civil Code section 1788.30(b); and reasonable attorney's fees and costs pursuant to California Civil Code section 1788.30(c).

49. Plaintiff re-alleges each of the paragraphs above, as if fully set forth herein.

1 incorporates the FDCPA.

2 51. Defendant WESTERN violated Civil Code section 1788.17 because it
3 violated 15 U.S.C. sections 1692e, 1692e(2)(A), and 1692e(10) when it wrongfully
4 attempted to collect a debt, by and through Defendant AARGON, from Plaintiff even
5 though Plaintiff never owed the debt because the debt belong to Plaintiff's mother and
6 had already been discharged in bankruptcy.

7 52. Defendant WESTERN violated Civil Code section 1788.17 because it
8 violated 15 U.S.C. sections 1692e, 1692e(2)(A), and 1692e(10) when it wrongfully
9 assigned and/or transferred the debt to Defendant AARGON for collections, even
10 though Plaintiff never owed the debt because the debt belong to Plaintiff's mother and
11 had already been discharged in bankruptcy.

12 53. As a result of each and every violation of the Rosenthal FDCPA,
13 Plaintiff has suffered actual damages and harm resulting from Defendant
14 WESTERN's actions as heretofore alleged, including but not limited to worry,
15 emotional distress, anxiety, humiliation, loss of creditworthiness and credit standing,
16 and out-of-pocket expenses the exact amount of which is to be proven at trial.

17 54. As a result of each and every violation of the Rosenthal FDCPA,
18 Plaintiff is entitled to actual damages pursuant to California Civil Code section
19 1788.30(a); statutory damages under 15 U.S.C. section 1692k(a)(2)(A) which is
20 incorporated by California Civil Code section 1788.17; statutory damages for a
21

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1 knowing or willful violation in the amount of up to \$1,000.00 pursuant to California
2 Civil Code section 1788.30(b); and reasonable attorney's fees and costs pursuant to
3 California Civil Code section 1788.30(c).

4
5 **VIII.**
6 **FOURTH CAUSE OF ACTION**
7 **(Violations of the CCRAA against Defendant AARGON)**

8 55. Plaintiff re-alleges each of the paragraphs above, as if fully set forth
9 herein.

10 56. California Civil Code section 1785.25(a) states:

11 A person shall not furnish information on a specific transaction or
12 experience to any consumer credit reporting agency if the person
13 knows or should know the information is incomplete or inaccurate.

14 57. Defendant AARGON violated the CCRAA by violating California Civil
15 Code section 1785.25(a) because it furnished to a consumer credit reporting agency,
16 including Experian, that Plaintiff owes a debt in the amount of \$2,226.00 when in fact
17 Plaintiff does not owe such debt. Defendant AARGON knew or should have known
18 that the information it provided to the consumer credit reporting agency, including
19 Experian, was incomplete or inaccurate because as the agent assigned to collect the
20 debt on behalf of Defendant WESTERN Defendant AARGON should have known
21 that Defendant WD's records showed the mother as the only financially responsible
party and that the debt had been discharged in the mother's bankruptcy.

22 58. As a result of each and every violation of the CCRAA, Plaintiff has
suffered actual damages and harm resulting from Defendant AARGON's actions as

1 heretofore alleged, including but not limited to worry, emotional distress, anxiety,
 2 humiliation, loss of creditworthiness and credit standing, and out-of-pocket expenses
 3 the exact amount of which is to be proven at trial.

4 59. As a result of each and every violation of the CCRAA, Plaintiff is
 5 entitled to actual damages, reasonable attorney's fees and costs pursuant to California
 6 Civil Code section 1785.33(a)(1); and statutory damages for a knowing or willful
 7 violation in the amount of up to \$5,000.00 pursuant to California Civil Code section
 8 1788.31(a)(2)(B).

IX.

FIFTH CAUSE OF ACTION

(Violations of the CCRAA against Defendant WESTERN)

11 60. Plaintiff re-alleges each of the paragraphs above, as if fully set forth
 12 herein.

13 61. Because Defendant AARGON was assigned this alleged debt for
 14 collection by Defendant WESTERN, Defendant AARGON was at all times relevant
 15 herein the agent working for, in association with, at the direction of, and on behalf of
 16 Defendant WESTERN, and therefore any violations committed by Defendant
 17 AARGON flow through as vicarious liability to Defendant WESTERN.

18 62. Because Defendant AARGON was acting as the agent for Defendant
 19 WESTERN, Defendant AARGON knew or should have known that Plaintiff was not
 20 the financially responsible party on the debt, because Defendant AARGON was the
 21 agent for Defendant WESTERN and therefore stepped in the shoes of Defendant

1 WESTERN, and Defendant WESTERN's records should clearly show that the
 2 mother was the only financially responsible party and that Defendant WESTERN
 3 submitted a proof of claim of the debt in the mother's bankruptcy.

4 63. Therefore, Defendant AARGON's violations of California Civil Code
 5 section 1785.25(a) as explained above flow through as liability to Defendant
 6 WESTERN.

7 64. As a result of each and every violation of the CCRAA, Plaintiff has
 8 suffered actual damages and harm resulting from Defendants' actions as heretofore
 9 alleged, including but not limited to worry, emotional distress, anxiety, humiliation,
 10 loss of creditworthiness and credit standing, and out-of-pocket expenses the exact
 11 amount of which is to be proven at trial.

12 65. As a result of each and every violation of the CCRAA, Plaintiff is
 13 entitled to actual damages, reasonable attorney's fees and costs pursuant to California
 14 Civil Code section 1785.33(a)(1); and statutory damages for a knowing or willful
 15 violation in the amount of up to \$5,000.00 pursuant to California Civil Code section
 16 1788.31(a)(2)(B).

17 X.

18 **PRAYER FOR DAMAGES AND OTHER REMEDIES**

- 19 1. For actual damages;
- 20 2. For statutory damages;
- 21 3. For interest according to law;
4. For attorneys' fees;

1 5. For costs of suit herein incurred; and

2 6. For other and further relief as the court may deem proper.

3 DATED: September 29, 2015

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By: /s/Alex Asil Mashiri
Alex Asil Mashiri
Attorney for Plaintiff,
JENNIFER PEREZ

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